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selectively recording audible transmissions to and from said cellular telephone and for selectively recording sounds within a range of said housing; means for selectively reproducing sounds recorded on said audio recorder at said housing; a radio means mounted in said housing and having controls for selective operation of said radio means, and a jack connection for directly connecting said digital memory means of the device to a television or computer for downloading said recorded images and sounds from said digital memory means.

REMARKS

The Office Action mailed June 23, 2000 (hereinafter "the Office Action") and the references applied in the Office Action have been carefully considered.

This paper will serve to report the telephone interview between Examiner Appiah and the undersigned counsel for applicant on September 20, 2000, which was held at the request of the undersigned counsel for applicant for discussing the Office Action and the various objections and rejections therein, as detailed below. Also, the principal reference (Shamosh U.S. 5,144,661) was discussed. While no specific agreements were reached during the telephone interview, the Examiner indicated that the proposed amendments to overcome the drawing objection, the claim 25 objection and the rejection under 35 USC §112 would probably be acceptable, and that certain other amendments may be adequate to distinguish over Shamosh. The Examiner suggested that a proposed Amendment be faxed to him for consideration and, if necessary, further discussion.

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First, with respect to the objection to claim 25 set forth in Paragraph No. 3 of the Office Action, the Examiner is correct that a semicolon should have been included between "sounds" and "a" in line 11, which is accomplished by the foregoing amendment to claim 25. Counsel for applicant appreciates the Examiner's careful review of the claim to identify this typographical error for applicant.

The objection to the drawings in Paragraph No. 2 of the Office Action and the claim rejections under 35 USC 112 in Paragraph No. 4 of the Office Action are related and were discussed together during the telephone interview. In response to the drawing objection that no "audio recorder", as recited in claims 25, 44 and 54, is shown in the drawings, counsel noted that Figs. 2 and 4 each show an "Audio Capture" device 44. The "audio storage capture 44" device is first mentioned on page 7, line 14 of the specification and then described in connection with the alarm feature on the rest of page 7. Further, on page 9, lines 15-21, some other functions of the audio capture 44 are described including recording conversations in the area and two-way telephone conversations. Thus, it is believed that the "audio recorder" recited in the claims is clearly shown in the drawings as audio capture 44 and adequately described in the specification as an audio recorder. However, applicant's counsel realizes that the claim language may be misleading or confusing because, as the Examiner pointed out in Paragraph No. 4 of the Office Action, the claims include both a "memory means" having a function of capturing sounds and an "audio recorder" for recording sounds. In fact, the "audio recorder" of the claims is readable on the audio capture 44 which is part of the "memory means" for capturing images and sounds, as required by the claims. Thus, during the telephone interview, counsel

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proposed an amendment to each of the three independent claims 25, 44 and 54 to change "an audio recorder" to read "said memory means including an audio recorder" for more accurately defining the invention and avoiding the confusion of a possible double inclusion of an element in the claims. The Examiner tentatively agreed that this should resolve the objection and rejections of Paragraphs Nos. 2 and 4 of the Office Action, subject to his review of the proposed amendment. Reconsideration and a withdrawal of the drawing objection and those claim rejections under Section 112 are respectfully requested.

Paragraph No. 5 of the Office Action rejects claim 47 under 35 USC 112, second paragraph, as being indefinite by reason of "said digital memory means" lacking a clear antecedent basis in claim 47 or claim 44 from which it depends. The quoted phrase has been amended to delete "digital", which deletion is necessary by reason of the last Amendment changing the dependency of claim 47 from now cancelled claim 45, which included "digital", to claim 44 that did not include "digital" memory means. Thus, it is believed that this grounds for rejection has been overcome and reconsideration is respectfully requested.

In Paragraphs Nos. 7-10 of the Office Action, claims 25, 44, 47, 49, 50, 52, 53 and 63 are rejected under 35 USC 103(a) as unpatentably obvious over Shamosh as the principal reference in view of one or more secondary references (Hess, Reece, Villa-Real and Lehtonen). During the telephone interview with the Examiner on September 20, 2000, counsel for applicant argued that all of the claims clearly distinguished over Shamosh on several grounds because Shamosh is directed to a substantially different apparatus and system than applicant's invention. Shamosh is directed to a "Security Protection System

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And Method", as the title states, for installation in "mobile environments, such as, motor vehicles, aircraft, and boats, and fixed environments, such as, banks, museums, homes, retail stores, and the like" (col. 5, lines 7-9 and Figs. 3-6) where all of the components are fixedly installed at a variety of locations within the "mobile. . . and . . . fixed environment" as shown in the automobile, airplane, bank and residence illustrated in Figs. 3-6. In other words, these are permanent installations of security systems in large mobile or fixed environments with many of the components located so that they are not accessible to persons that might tamper with those components. No where in the specification of Shamosh is any other type of installation described. Thus, Shamosh does not disclose a "portable information communication device" as required by the first line of each of applicant's independent claims 25, 44, and 54, as originally filed in a Preliminary Amendment with this Continued Prosecution Application and retained in the Amendment and Response filed March 22, 2000. By the requirements in each of applicant's claims of a "portable" device and a "housing" in which all of the components are contained, applicant and counsel for applicant intended to clearly define the claimed device as being a device that a person can carry with them for accomplishing all of the functions defined by the claims, including a cell phone operable in a normal manner, an image recording feature, an audio recording feature for recording sounds in the area or telephone conversations, a means for transmitting the images and sounds immediately or in a delayed manner to a remotely located telephone by using the cell phone capability, and (claims 44 and 54) an security alarm system with sensors for personal protection and information recordation during emergencies, which thereby distinguishes over and differs from Shamosh in several respects. Applicant's specification and drawings disclose a small, portable device that is

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intended for personal use that a person can carry with him or her, the same as a cell phone, and this is the support for the claims whereby it is believed that "portable" in line 1 of each claim adequately defines the nature and size of the claimed device to distinguish over Shamosh.

In applying Shamosh to applicant's claims in the Office Action, it is asserted that the applicant's "housing" (line 3 of each independent claim) is met by the Shamosh "housing 60", which is an automobile. This application of "housing" was discussed in the telephone interview and counsel for applicant suggested a couple of alternatives for clarifying applicant's independent claims to define device and the "housing" in a manner that would not be met by the automobile, airplane, bank, residence or the like of Shamosh. Thus, by the foregoing amendments to claims 25, 44 and 54, applicant has defined the claimed device as a "handheld portable. . . device" and that all of the components are in a "housing of a size and weight for being handheld by a person", which applicant respectfully submits clearly distinguishes over Shamosh and there is no suggestion in Shamosh that his "mobile... and...fixed environment" system with multiple components installed in a variety of locations in each such environment could be incorporated in a single, handheld, portable housing that a person can carry as a personal cell phone, security device, recorder, etc. Thus, it is believed that these amendments to the first few lines of the independent claims clearly distinguish over the principal reference of Shamosh and reconsideration of the rejection is respectfully requested. Further, the preamble of each independent claim has been amended for clarity and accuracy to recite that the device is also for "recording" because the last several lines (added by the Amendment of March 22, 2000) of each such

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claim now requires the audio recording feature. It is respectfully submitted that these amendments do not raise "new issues" after the final rejection that would preclude their entry because applicant has continually disclosed and argued the benefits of this personal, handheld device and the recording features, as well as sincerely believing that "portable" adequately defined that type of a device.

Applicant's independent claims also distinguish from Shamosh on several other grounds. Shamosh does not include a cellular telephone with the normal communication features of a cellular telephone as part of its system, but rather Shamosh merely discloses the use of a telephone type communication system, such as "wires, fiber optic cables, or electromagnetic waves" (col. 4, lines 12-14) for transmitting the security alarm signal to the home base 34. In other words, the Shamosh system is only a security system with no ability to make person-to-person communications on the telephone or radio means disclosed for transmitting the alarm signal to the home base. Further, Shamosh does not disclose or suggest an audio recorder, as required by each of applicant's claims, that is capable of recording a two-way conversation on the cell phone, as required by each independent claim, or the other audio recording features that are claimed. Still further, while Shamosh discloses a memory unit 28, there is no description of any means or method for a person at the location (car, airplane, bank, house, etc.) of his security system to selectively send or not send the audio or visual data recorded in the memory unit to the base unit 34 or for that person to retrieve and play back the audio or visual data recorded in the memory unit, as disclosed and claimed by applicant.

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Further, it should be noted that in addition to the overly broad assertion in the Office Action of the meaning of applicant's claimed "housing", the Office Action attributes some other features to Shamosh that are not present. For example, on page 4, lines 3 and 4 of the Office Action, it is asserted that Shamosh discloses means "for capturing images and sounds within a range of the housing" but, in fact, Shamosh only discloses capturing images and sounds within the "housing" (car, airplane, bank, house, etc.). Further, the Office Action asserts that Shamosh discloses "memory means in the housing for selectively storing . . ." but in fact there is no mention in Shamosh of "selectively" causing the storing of the sounds and images but rather, the sounds and images are always stored when the video/audio recording unit 24 is actuated.

Thus, it seems clear that Shamosh is directed to an entirely different type of device than applicant's invention and indeed that applicant's claims clearly distinguish over Shamosh.

The secondary references that have been applied in the Office Action in rejecting the claims do not add any of the features discussed above that are lacking in Shamosh and included in applicant's claims. Hess has been applied for its "capability of initiating a telephone call to a security monitor station" that is not shown in Shamosh but Hess does not disclose the other distinguishing features of applicant's claims. Since Hess is a secondary reference in each of the claim rejections, this is still another reason why applicant's independent claims clearly distinguish over the obviousness rejection combining Shamosh and Hess. The other secondary references also do not add the basic features required by each of applicant's independent claims 25, 44 and 54, although such

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references may disclose one or more of the features set forth in the independent claims. Further, there is no suggestion in Shamosh or the secondary references that the various features can or should be combined in the system of Shamosh to "create" a device that may be similar to applicant's, and there is no incentive for one skilled in the art to do so in view of the very complete security system disclosed by Shamosh for its intended purposes. Still further, a person skilled in the art that is interested in designing a portable, personal security system would not look to the permanent installations of Shamosh and therefore Shamosh is really non-analogous art.

In summary, it is believed that each of applicant's independent claims 25, 44 and 54 clearly distinguish over all of the cited references and any obvious combinations thereof, whereby reconsideration of the rejections and an allowance of all of the pending claims is respectfully requested.

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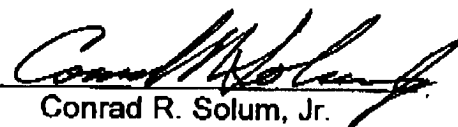
In the event that the Examiner, after considering the foregoing claim amendments and remarks, is of the opinion that either the claim amendments should not be entered for any reason or that such amendments do not place all of the claims in condition for allowance, it is respectfully requested that the Examiner telephone the undersigned counsel for applicant to discuss such opinions.

Respectfully submitted,

LYON & LYON LLP

Date: September ²⁵ ~~22~~, 2000 ^{CRS}

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